

(3) The nursing facility shall agree not to charge any private paying resident in a single bedroom a payment rate that exceeds the amount calculated under clauses (a) to (c).

(a) The nursing facility's average total payment rate shall be determined by multiplying the total payment rate for each case mix resident class by the number of resident days for that class in the nursing facility's reporting year and dividing the sum of the resident class amounts by the total number of resident days in the nursing facility's reporting year.

(b) The nursing facility's maximum single bedroom adjustment must be determined by multiplying its average total payment rate calculated under clause (a) by ten percent.

(c) The nursing facility's single bedroom adjustment which must not exceed the amount computed in clause (b) must be added to each total payment rate established in Section 17.010 to determine the nursing facility's single bedroom payment rates.

SECTION 15.120 Capitalization. For rate years after June 30, 1985, the cost of purchasing or repairing capital assets shall be capitalized under items A to D.

A. The cost of purchasing a capital asset listed in the depreciation guidelines must be capitalized. The cost of purchasing any other capital asset not included in the depreciation guidelines must be capitalized if the asset has a useful life of more than two years and costs more than \$500.

B. The nursing facility may consider as an expense a repair that costs \$500 or less. Repairs that are considered as an expense must be classified in the plant operation and maintenance cost category. If the cost of a repair to a capital asset is \$500 or more, and the estimated useful life of the capital asset is extended beyond its original estimated useful life by at least two years, or if the productivity of the capital asset is increased significantly over its original productivity, then the cost of the repair must be capitalized.

C. The property-related expenditures related to capital assets such as lease or depreciation, interest, and real estate taxes which are used by central, affiliated, or corporate offices must be classified in the nursing facility's general and administrative cost category.

D. Construction period interest expense, feasibility studies, and other costs related to the construction period must be capitalized.

SECTION 15.130 Determination of the property-related payment rate. The Department shall determine the property-related payment rate according to items A to G.

STATE: MINNESOTA

Effective: July 1, 1999

TN: 99-10

Approved: Dec. 15, 1999

Supersedes: 99-04 (98-22/97-20/97-11)

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(4) Any transaction in which a partner, owner, or shareholder acquires an interest or share of another partner, owner, or shareholder in a nursing facility business provided the acquiring partner, owner, or share has less than 50 percent ownership after the acquisition.

(5) A sale and leaseback to the same licensee which does not constitute a change in facility license.

(6) A transfer of an interest to a trust.

(7) Gifts or other transfers for no consideration.

(8) A merger of two or more related organizations.

(9) A transfer of interest in a facility held in receivership.

(10) A change in the legal form of doing business other than a publicly held organization which becomes privately held or vice versa.

(11) The addition of a new partner, owner, or shareholder who owns less than 20 percent of the nursing facility or the issuance of stock.

(12) An involuntary transfer including foreclosure, bankruptcy, or assignment for the benefit of creditors.

G. The property-related payment rate for a nursing facility which qualifies for the special reappraisal in Section 15.030, item A shall be determined according to subitems (1) to (2).

(1) If the amount computed according to item A using the reappraised value is equal to or less than the property-related payment rate in effect prior to the reappraisal, the property-related payment rate in effect prior to the reappraisal shall not be adjusted.

(2) If the amount computed according to item A using the reappraised value is greater than the property-related payment rate in effect prior to the reappraisal, the property-related payment in effect prior to the reappraisal shall be added to the difference between the amount computed according to item A using the reappraised value and the amount value prior to the reappraisal. This sum must not exceed the amount computed in item A using the reappraised value. If the difference between the amount computed according to item A using

STATE: MINNESOTA

Effective: July 1, 1999

TN: 99-10

Approved: Dec. 15, 1999

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the reappraised value and the amount computed according to item A using the most recent appraised value prior to the reappraisal is equal or less than zero, the difference shall be considered zero.

SECTION 15.132 Special property-related payment provisions for certain leased nursing facilities.

A. For rate years beginning on or after July 1, 1990, a nursing facility under lease from 1968 until 1983 with a lessee or related party having an option to purchase the nursing facility, which option was subsequently exercised, shall be allowed debt and interest costs incurred by the lessee or related party on indebtedness created when the option was exercised before the end of the 1983 calendar year. The nursing facility must demonstrate to the satisfaction of the Commissioner that the interest rate on the debt was less than market rate interest rates for similar arms length transactions at the time the debt was incurred.

B. A nursing facility leased prior to January 1, 1986, and currently subject to adverse licensure action by the Minnesota Department of Health and whose ownership changes prior to July 1, 1990, shall be allowed a property payment rate equal to the lesser of its current lease obligation divided by its capacity days as outlined in Section 15.110, or the frozen property payment rate in effect for the rate year beginning July 1, 1989. For rate years beginning on or after July 1, 1991, the property related payment rate shall be its rental rate as computed using the previous owner's allowable principal and interest expense as allowed by the Minnesota Department of Human Services prior to that prior owner's sale and lease-back transaction of December 1985.

C. Notwithstanding other provisions in this attachment, a nursing facility licensed for 122 beds on January 1, 1998, and located in Columbia Heights has its property-related payment rate set under this section. The Department shall make a rate adjustment by adding \$2.41 to the facility's July 1, 1997 property-related payment rate (which is effective for rate years beginning on or after July 1, 1998). The adjustment remains in effect so long as the facility's rates are set under this section. If the facility participates in the contractual alternative payment rate system of Section 21.000, the adjustment in this item is included in the facility's contract payment rate. If historical rates or property costs recognized under this section become the basis for future medical assistance payments to the facility under a managed care, capitation or other alternative payment system, the adjustment of this item will be included in the computation of the facility's payments.

STATE: MINNESOTA

Effective: July 1, 1999

TN: 99-10

Approved Dec. 15, 1999

Supersedes: 99-04 (98-22/97-20/97-11)

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SECTION 15.133 Special property-related payment provisions for recently constructed nursing facilities. For the rate years beginning on or after July 1, 1990 nursing facilities that on or after January 1, 1976, but prior to January 1, 1987, were newly licensed after new construction, or increased their licensed beds by a minimum of 35 percent through new construction, and whose building capital allowance is less than their allowable annual principal and interest on allowable debt prior to the application of the replacement cost new per bed limit and whose remaining weighted average debt amortization schedule as of January 1, 1988, exceeded 15 years, must receive a property related payment rate equal to the greater of their rental per diem or their annual allowable principal and allowable interest without application of the replacement cost new per bed limit divided by their capacity days from the preceding reporting year, plus their equipment allowance.

A nursing facility that is eligible for a property related payment rate under this section and whose property payment rate in a subsequent year is its rental per diem must continue to have its property related payment rates established for all future years based on the rental reimbursement formula. The Commissioner may require the nursing facility to apply for refinancing as a condition of receiving special rate treatment under this section. If a nursing facility is eligible for a property related payment rate under this section, and the nursing facility's debt is refinanced after October 1, 1988, the provisions of paragraphs (1) to (7) also apply to the property related payment rate for rate years beginning on or after July 1, 1990.

- (1) A nursing facility's refinancing must not include debts with balloon payments.
- (2) If the issuance costs, including issuance costs on the debt refinanced, are financed as part of the refinancing, the historical cost of capital asset limit includes issuance costs that do not exceed seven percent of the debt refinanced, plus related issuance costs. For purposes of this section, issuance costs means the fees charged by the underwriter, issuer, attorneys, bond raters, appraisers, and trustees, and includes the cost of printing, title insurance, registration tax, and a feasibility study for the refinancing of a nursing facility's debt. Issuance costs do not include bond premiums or discounts when bonds are sold at other than their par value, points, or a bond reserve fund. To the extent otherwise allowed under this paragraph, the straight line amortization of the refinancing costs is not an allowable cost.
- (3) The annual principal and interest expense payments and any required annual municipal fees on the nursing facility's refinancing replace those of the refinanced debt and, together with annual principal and interest payments on other allowable debts, are allowable costs subject to the limitation in subitem (2), if any.

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Effective: July 1, 1999

TN: 99-10

Approved: Dec. 15, 1999

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(4) If the nursing facility's refinancing includes zero coupon bonds, the Commissioner shall establish a monthly debt service payment schedule based on an annuity that will produce an amount equal to the zero coupon bonds at maturity. The term and interest rate is the term and interest rate of the zero coupon bonds. Any refinancing to repay the zero coupon bonds is not an allowable cost.

(5) The annual amount of the annuity payments is added to the nursing facility's allowable annual principal and interest expense payment computed in subitem (3).

(6) The property related payment rate is equal to the amount in subitem (5) divided by the nursing facility's capacity days as determined in Section 15.130, for the preceding reporting year plus an equipment allowance.

(7) Except as provided in this section, the previously outlined methodology for the calculation of property payment rates applies.

SECTION 15.135 Depreciation recapture. The sale of a nursing facility which occurred on or after July 1, 1987, shall result in depreciation recapture payments to be paid by the buyer to the Department within 60 days of the Department's notification if the sale price exceeds the nursing facility's allowable historical cost of capital assets including land recognized by the Department at the time of the sale reduced by accumulated depreciation. The gross recapture amount shall be the lesser of the actual gain on the sale or actual depreciation recognized for the purpose of calculating medical assistance payment rates from the latter of the date of previous sale or November 1, 1972, through the date of the sale. The gross recapture amount shall be allocated to each reporting year from the latter of the date of previous sale or November 1, 1972, through the date of the sale in the same ratio as depreciation amounts recognized for the purpose of calculating medical assistance payment rates. The amount allocated to each reporting year shall be divided by the total actual resident days in that reporting year, thereby determining a cost-per-resident day. The recapture amount shall be the cost-per-resident day for each reporting year times the actual medical assistance resident days for the corresponding rate year following each reporting year. No payment of depreciation recapture shall be assessed with respect to a portion of a rate year beginning after June 30, 1985, in which the property-related payment rate was based on the nursing facility's rental value. The recapture amount shall be reduced by one percent for each month of continuous ownership since the previous date of sale for the nursing facility up to a maximum of 100 months. For the purpose of this section, the sale of a nursing facility means the sale or transfer of a nursing facility's capital assets or capital stock or the redemption of ownership interests by members of a partnership. In the case of a sale or transfer of a nursing facility in

STATE: MINNESOTA

Effective: July 1, 1999

TN: 99-10

Approved: *Dec. 15, 1999*

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which the new operator leases depreciable equipment used in the nursing facility business from the prior operator, or an affiliate of the prior operator, the net present value of the lease shall be added to the transaction price for the purpose of determining the actual gain on the sale. In the case of a partial sale of a nursing facility, the provisions of the section will be applied proportionately to sales or accumulations of sales that exceed 20 percent of a nursing facility's capital assets or capital stock. Depreciation recapture payments resulting from the sale of a nursing facility which occurred before July 1, 1985, shall be calculated in accordance with reimbursement regulations in effect on the date of the sale.

SECTION 15.136 Property payment rates for rate years beginning on or after July 1, 1990. For purposes of property-related reimbursement under this section, nursing facilities will be grouped according to the type of property related payment rate the Commissioner of Human Services for the rate year beginning July 1, 1989. A nursing facility whose property rate was determined under full rental shall be considered group A. A facility whose property payment rate was determined under phase down to rental reimbursement shall be considered group B. A facility whose rate was determined under the phase up provisions will be considered group C.

A. For the rate year beginning July 1, 1990, a group A facility will continue to have its property-related payment rate determined in accordance with the provisions of Section 15.080.

B. For the rate year beginning July 1, 1990, a group B facility will receive a payment related rate equal to the greater of:

(1) 87% of the property related payment rate in effect on July 1, 1989; or

(2) the rental per diem calculated in accordance with the provisions of Section 15.080 and this section; or

(3) the sum of 100% of the nursing facilities allowable principal and interest expense; plus its equipment allowance multiplied by the resident days for the reporting year ending September 30, 1989, divided by the nursing facilities capacity days.

C. For the rate year beginning July 1, 1990, a group C facility will have its property related payment rate calculated under the provisions of Section 15.130 item C and this section, except that its property related payment rate cannot exceed the lesser of its property related payment rate established for the rate year beginning July 1, 1989, multiplied by 116% or the

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Effective: July 1, 1999

TN: 99-10

Approved: Dec. 15, 1999

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rental per diem determined effective July 1, 1990.

D. The property related payment rate for a nursing facility that qualifies for a special reappraisal will have the applicable property related payment rate as calculated above and as adjusted in accordance with the provisions of Section 15.030.

E. Except as provided in Section 15.13, item F, and Section 15.132, a nursing facility that has a change of ownership or a reorganization of provider entity is subject to the provisions of Section 15.130, item F.

F. Except as provided in Section 15.133, a nursing facility will have its property related payment rate calculated according to items A to E. Those nursing facilities whose property related payment rates are calculated under the provisions of Section 15.133 will receive a property related payment rate equal to the greater of the rate calculated under Section 15.133 or that rate applicable under items A to E.

SECTION 15.1365 Interim property-related payment rates. For the rate period July 1, 1991, to September 30, 1992, the Department will continue the property-related payment rate in effect on June 30, 1991, for each nursing facility, except as provided in Sections 15.130, item F; 15.136, item D; and 15.132; except for the following:

A. A chain organization consisting of 28 nursing facilities which has a majority of owners beyond the retirement age of 62 and that has a change in ownership or reorganization of provider entity between July 1, 1991, and June 30, 1992, shall receive the property-related payment rate in effect at the time of the sale or reorganization. This exception is not effective until the Department has received approval of its state plan from the federal government.

B. If the property-related payment rate in effect on June 30, 1991, is later adjusted by the Department, the property-related payment rate for the rate period July 1, 1991, to September 30, 1992, will also be adjusted correspondingly.

SECTION 15.1370 Hold-harmless property-related rates.

A. Terms used in Sections 15.1370 to 15.1378 shall be as defined in the plan. Capital assets for purposes of Sections 15.1370 to 15.1378 only means a nursing facility's buildings, attached fixtures, land improvements, leasehold improvements, and all additions to or replacements of those assets used directly for resident care.

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Effective: July 1, 1999

TN: 99-10

Approved: Dec. 15, 1999

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B. Except as provided in this section, for rate periods beginning on October 1, 1992, and for rate years beginning after June 30, 1993, the property-related rate for a nursing facility shall be the greater of \$4 or the property-related payment rate in effect on September 30, 1992. In addition, the incremental increase or decrease in the nursing facility's rental rate will be determined under this plan. An incremental decrease with an effective date after June 30, 1993, must reduce the nursing facility's property related payment rate.

C. Notwithstanding Section 15.130, item F, a nursing facility that has a sale permitted under Section 15.1371 after June 30, 1992, shall receive the property-related payment rate in effect at the time of the sale or reorganization. For rate periods beginning after October 1, 1992, a nursing facility shall receive, in addition to its property-related payment rate in effect at the time of the sale, the incremental increase allowed under Section 15.1371. For rate years beginning after June 30, 1993, a nursing facility shall receive, in addition to its property-related payment rate in effect at the time of the sale, the incremental increase or decrease allowed under Section 15.1371.

D. For rate years beginning after June 30, 1993, the property-related rate for a nursing facility licensed after July 1, 1989 that was sold during the cost reporting year ending September 30, 1991 (after relocating its beds from a separate nursing home to a building formerly used as a hospital) is its property-related rate before the sale plus:

(1) the incremental increase effective October 1, 1992 of 29 cents per day; and

(2) any incremental increases after October 1, 1992 calculated by using its rental rate, recognizing the current appraised value of the facility at the new location, and including as allowable debt otherwise allowable debt incurred to remodel the facility in the new location before relocating its beds.

Section 15.1371 Limitations on sales of nursing facilities.

A. For rate periods beginning on October 1, 1992, and for rate years beginning after June 30, 1993, a nursing facility's property-related payment rate as established under Section 15.1370 shall be adjusted by either item B or C for the sale of the nursing facility, including sales occurring after June 30, 1992, as provided in this Section.

B. If the nursing facility's property-related payment rate under Section 15.1370 prior to sale is greater than the nursing facility's rental rate under this plan prior to sale, the nursing facility's property-related payment rate after sale shall be the greater of its property-related

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Effective: July 1, 1999

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payment rate under Section 15.1370 prior to sale or its rental rate under this plan calculated after sale.

C. If the nursing facility's property-related payment rate under Section 15.1370 prior to sale is equal to or less than the nursing facility's rental rate under this plan prior to sale, the nursing facility's property-related payment rate after sale shall be the nursing facility's property-related payment rate under Section 15.1370 plus the difference between its rental rate calculated under this plan prior to sale and its rental rate calculated under this plan calculated after sale.

D. For purposes of this section, "sale" means the purchase of a nursing facility's capital assets with cash or debt. The term sale does not include a stock purchase of a nursing facility or any of the following transactions:

(1) a sale and leaseback to the same licensee that does not constitute a change in facility license;

(2) a transfer of an interest to a trust;

(3) gifts or other transfers for no consideration;

(4) a merger of two or more related organizations;

(5) a change in the legal form of doing business, other than a publicly held organization that becomes privately held or vice versa;

(6) the addition of a new partner, owner, or shareholder who owns less than 20 percent of the nursing home or the issuance of stock; and

(7) a sale, merger, reorganization, or any other transfer of interest between related organizations other than those permitted in this section.

E. For purposes of this item, "sale" includes the sale or transfer of a nursing facility to a close relative as defined in Section 1.030, upon the death of an owner, due to serious illness or disability, as defined under the Social Security Act, under 42 U.S.C. §423(d)(1)(A), or upon retirement of an owner from the business of owning or operating a nursing home at 62 years of age or older. For sales to a close relative allowed under this item otherwise nonallowable debt resulting from seller financing of all or a portion of the debt resulting from

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Effective: July 1, 1999

TN: 99-10

Approved: Dec. 15, 1999

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the sale shall be allowed and shall not be subject to Section 15.050, item E, provided that in addition to existing requirements for allowance of debt and interest, the debt is subject to repayment through annual principal payments and the interest rate on the related organization debt does not exceed three percentage points above the posted yield for standard conventional fixed rate mortgages of the Federal Home Loan Mortgage Corporation for delivery in 60 days in effect on the day of sale. If at any time the seller forgives the related organization debt allowed under this item for other than equal amount of payment on that debt, then the buyer shall pay to the State the total revenue received by the nursing facility after the sale attributable to the amount of allowable debt which has been forgiven. Any assignment, sale, or transfer of the debt instrument entered into by the close relatives, either directly or indirectly, which grants to the close relative buyer the rights to receive all or a portion of the payments under the debt instrument shall, effective on the date of the transfer, result in the prospective reduction in the corresponding portion of the allowable debt and interest expense. Upon the death of the close relative seller, any remaining balance of the close relative debt must be refinanced and such refinancing shall be subject to the provisions of Section 15.070, item G. This paragraph shall not apply to sales occurring on or after June 30, 1997.

F. For purposes of this section, "effective date of sale" means the later of either the date on which legal title to the capital assets is transferred or the date on which closing for the sale occurred.

G. The effective day for the property-related payment rate determined under this section shall be the first day of the month following the month in which the effective date of sale occurs or October 1, 1992, whichever is later.

H. Notwithstanding Section 15.050, item A, subitems (3) and (4), and Section 15.050, items E and F, the Commissioner shall limit the total allowable debt and related interest for sales occurring after June 30, 1992, to the sum of subitems (1) to (3):

(1) the historical cost of capital assets, as of the nursing facility's most recent previous effective date of sale or, if there has been no previous sale, the nursing facility's initial historical cost of constructing capital assets;

(2) the average annual capital asset additions after deduction for capital asset deletions, not including depreciations; and

(3) one-half of the allowed inflation on the nursing facility's capital assets. The Commissioner shall compute the allowed inflation as described in item H.